



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 35]

नई दिल्ली, शनिवार, नवम्बर 17, 2001/कार्तिक 26, 1923

No 35]

NEW DELHI, SATURDAY, NOVEMBER 17, 2001/KARTIKA 26, 1923

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate Paging is given to this Part in order that it may be filed
as separate compilation.

भाग II—खण्ड 3—उप-खण्ड (iii)

PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं

Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA

नई दिल्ली, 25 सितम्बर, 2001

New Delhi, the 25th September, 2001

आ.अ. 146.—निर्वाचन आयोग 1999 की निर्वाचन अर्जी
सं. 21 में कर्नाटक, उच्च न्यायालय, बंगलौर के आदेश को लोक
प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की
धारा 106 के अनुसरण में एतद्वारा प्रकाशित करता है।
(आदेश इस अधिसूचना के अंग्रेजी भाग में छपा है।)

O.N. 146.—In pursuance of Section 106 of the
Representation of the people Act, 1951 (43 of 1951),
the Election Commission hereby publishes the order
of the High Court of Karnataka, Bangalore dated
20-4-2001 in Election petition No. 21 of 1999.

[संख्या 82/कर्नाटक-लो. स./21/99/2001]

IN THE HIGH COURT OF KARNATAKA
AT BANGALORE

आदेश में,
बाबू राम, मंचिव

DATED THIS THE 20TH DAY OF APRIL, 2001
BEFORE

THE HON'BLE MR. JUSTICE TIRATH SINGH
THAKUR

ELECTION PETITION NO. 21/1999.

BETWEEN:

A. Siddaraju,
Major,
R/o No. 2358,
J Block, Adichunchanagiri Road,
Kuveempunagar,
MYSORE.

PETITIONER

(By Sri. G. Gangi Reddy, Adv.,)

AND :—

1. Returning Officer,
No. 15, Chamarajanagar
Loksabha Parliamentary Constituency,
Chamarajanagar, And the
Deputy Commissioner,
Chamarajanagar Dist.
2. V. Srinivasa Prasad,
S/o Venkataiah, M.P., Major,
R/o No. 91, Bheemasandra,
7th Main, Jayalakshmipuram,
MYSORE-12.
3. H. Govindaiah,
Deputy Registrar of Evaluation,
Karnataka Open University,
Manasagangotri.
4. M.K. Kempa Siddaiah,
Major,
No. 412,
4th 'A' Main Road,
3rd Stage, Basaveswaranagar,
BANGALORE-79.
5. Vicharavadi Mantalingaiah,
President,
A.J.M.S.,
Gandhinagar,
MYSORE

RESPONDENTS

(By Sri G.N. Shantaraju, for

M/S Kesvy & Co., for R-2:

Election Petition is filed u/s. 81 of the Representation of People Act, 1951, praying to call for the production of the ballot papers including the rejected votes and pass for orders, for recount as deemed fit, in the interest of justice etc.,

This Petition coming on for hearing, the same having been heard and reserved for pronouncement of order, the Court made the following order:

ORDER

In the last general election to the Parliament from No. 15, Chamarajanagar Parliamentary Constituency, Sri V Srinivasa Prasad-Respondent No. 2 in this Petition was declared elected having secured 3,11,547 votes as against 2,95,401 polled by the petitioner. Aggrieved, the petitioner has in the present Election Petition sought a declaration to the effect that the election of the 2nd respondent is void besides a further declaration that he stands duly elected from the said Constituency. The petitioner's case entirely rests on the alleged improper reception and rejection of votes within the meaning of Sec. 100(d) (iii) of the Representation of the People Act, 1951, which has, according to him, materially affected the result of the election. Broadly speaking, the allegations made in the Election Petition suggest that the result of the election was affected materially by reason of rejection of a large number of votes that had been cast in favour of the petitioner besides improper mixing of votes polled in favour of petitioner with those polled by the 2nd respondent. The Petition also contains allegations of irregularities in the counting of votes besides suggesting that the rejection of the votes by the Returning Officers of the Assembly Constituencies was not permissible. I shall presently refer to the contents of the Petition in detail. Suffice it to say that the Petition does not make any allegation regarding the commission of any corrupt practice by either the successful candidate or any other candidate for that matter.

On the basis of the pleadings of the parties, as many as ten issues were framed by this Court by order dated 11th of August 2000. Issues No. 1 to 5, which were purely legal in nature and in regard to which no evidence was offered by the parties were treated as preliminary issues. They read as under:

“(1) Whether the Returning Officer R-1, is liable to be deleted from the array of Respondents as stated in I.A. No. I, filed by the second Respondent?

(2) Whether the averments made in paras 2 to 22 of the Election Petition, are unnecessary, vexatious and frivolous hence liable to be struck off?

(3) Whether the Election Petition does not disclose any cause of action and is therefore liable to be rejected?

(4) Whether the Election Petition has not been verified properly and is liable to be dismissed on that ground?

(5) Whether the Election Petitioner has not complied with Section 81(3) of the Representation of People Act, 1951? If so, whether the petition is liable to be dismissed on that ground?”

ISSUE NO. (1)

It was argued by Mr Shantaraju, learned Counsel for Respondent No. 2, that the Returning Officer is neither a necessary nor a proper party to the present proceedings. He contended that Sec. 82 of the Representation of People Act, 1951 was an exhaustive provision and did not permit any person other than those referred to therein as party respondent to an Election Petition. The Returning Officer-Respondent No. 1 was therefore improperly joined as a party and deserved to be deleted from the array of respondents. Reliance in support was placed by the learned Counsel upon the decisions of the Supreme Court in *JYOTI BASU AND OTHERS Vs. DEBI GHOSAL AND OTHERS* (AIR 1982 SC 983) *B. SUNDARA RAMI REDDY Vs. ELECTION COMMISSION OF INDIA AND OTHERS* [1991 Supp (2) SCC 624] and *SUBHAN KHAN Vs. J H PATEL AND OTHERS* [1995 (3) KLJ 559].

In *Jyoti Basu's* case (supra), the Apex Court declared that no one may be joined as a party to an Election Petition otherwise than as provided by Sections 82 and 86(4) of the Act. The Court held that besides Sections 82 and 86(4) of the Act, there is no other provision dealing with the question as to who may be joined as respondents and that while a candidate not already a respondent may seek his addition and may be joined as a respondent, any other person cannot do so even if allegations of corrupt practice are made against him. The contest of an election petition, declared the Court, was confined to the candidates at the election excluding all others. The Court observed:—

“The ring is closed to all except the petitioner and the candidates at the election. If such is the design of the statute, how can the notion of ‘proper parties’ enter the picture at all? We think that the concept of ‘proper parties’ is and must remain alien to an election dispute under the Representation of the People Act, 1951. Only those may be joined as respondents to an election petition who are mentioned in S.82 and S.86(4) and no others. However, desirable and expedient it may appear to be none else shall be joined as respondents.”

Even in *Sundara Rami Reddy's* case relied upon by Mr. Shantaraju, the Court reiterated that the concept of a ‘proper party’ is must remain alien under the Representation of the People Act, 1951. The Court held:—

“The concept of ‘proper party’ is and must remain alien to an election dispute under the Representation of the People Act, 1951. Only those may be joined as respondents to an election petition who are mentioned in Section 82 and Section 86(4) and no others. However desirable

and expedient it may appear to be, none else shall be joined as respondents.”

To the same effect is the decision of this Court in *Subhan Khan's* case, in which *Krishnamoorthy, J.*, while examining a similar question expressed doubts about *P A SHREEDHAR SHANAI Vs. CHIEF ELECTORAL OFFICER* [ILR 1990 KAR 2622] stating the correct legal position after the declaration of the law by the Supreme Court in *B Sundara Rama Reddy's* case (supra). I am conscious of a recent decision of a Simple Bench of this Court in *K S ESHWARAPPA Vs. H M CHANDRA-SHEKARAPPA AND OTHERS* [ILR 2001 KAR 1878], in which the Court appears to have relied upon the decision in *P A Shreedhara Shanai's* case while holding that a petition in which a party other than those permitted by Sec. 82 of the Act is impleaded cannot be dismissed on the ground of misjoinder only. That decision cannot in my opinion be understood to be laying down a proposition contrary to what has been held by the Supreme Court in *Jyoti Basu* and *Sundara Rama Reddy's* cases (supra). The ratio of the decision simply is that while failure to implead a party who is a necessary party under Sec. 82 may be fatal, the improper joining of a party outside the requirement of that provision cannot entail dismissal of the petition. The argument of Mr Gangi Reddy that the Returning Officer for the election was a proper party having regard to the nature of the allegations made in regard to the counting of votes must accordingly fail and is hereby rejected.

ISSUES NOS. 2 AND 3

It was contended by Mr. Shantaraju, Counsel appearing for the elected candidate that the Election Petition does not disclose any cause of action and was therefore liable to be rejected in terms of Order 7 Rule 11 of the C.P.C. He submitted that Sec. 83 of the Representation of the People Act requires every Election Petition to contain a concise statement of the material facts on which the petitioner placed reliance. The averments made in the present Petition did not, argued the learned Counsel, satisfy the said mandatory requirement and therefore failed to disclose any cause of action rendering the Petition liable to be rejected at the threshold.

On behalf of the Petitioner, Mr. Gangireddy argued that the averments made in the Petition were sufficient to disclose a full cause of action and that the particulars that may have been initially deficient may be allowed to be incorporated by way of an amendment, for which purpose the petitioner has made a separate application. He argued that the contents of the petition sufficiently satisfied the requirement of law which could not be thrown out at the threshold.

Sec. 83 of the Representation of the People Act inter alia provides that an Election Petition shall contain a concise statement of material facts on which the petitioner relies. Judicial pronouncements as to what constitutes "material facts" and what is the effect of non furnishing of such facts are a legion. Reference to all those decisions is in my opinion unnecessary for the legal position is authoritatively settled by the decisions of the Supreme Court to which I shall briefly refer.

In *SAMANT N BALAKRISHNA ETC. Vs. GEORGE FERNANDEZ AND OTHERS ETC.*, [AIR 1969 SC 1201], the Supreme Court held that Sec. 83 of the Act was mandatory and that a Petition, which did not contain material facts was not election petition at all. The Court observed that material facts constitute the cause of action for the filing of the Petition and that omission of a single material fact would amount to an incomplete cause of action. The following passage from the decision is apposite:—

"Section 83 is mandatory and requires the election petition to contain first a concise statement of material facts and then requires the fullest possible particulars. The word 'material' shows that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the cause he will have to meet. There may be some overlapping between material facts and particulars but the two are quite distinct.

An election petition without the material facts relating to a corrupt practice is no election petition at all. A petition which merely cites the sections cannot be said to disclose a cause of action where the allegation is the making of a false statement."

In *JITENDRA BAHADUR SINGH Vs. KRISHNA BEHARI AND OTHERS* [AIR 1970 SC 276], the Court was dealing with the question of scrutiny of ballot papers in terms of Sec. 92 of the Act read with Rule 93 of the Conduct of Election Rules. The significance of material facts was noticed by the Court in the following words :

"The basic requirements to be satisfied before an election tribunal can permit the inspection of ballot papers, are (1) that the petition for setting aside the election must contain an adequate statement of the material facts on which the petitioner relies in support of his case and (2) the tribunal

must be prima facie satisfied that in order to decide the dispute and to do complete justice between the parties, inspection of the ballot papers is necessary. The material facts required to be stated are those facts which can be considered as materials supporting the allegations made."

The Court further held that if the election petitioner gave some figures regarding rejection of valid votes and acceptance of invalid votes, the same must not be considered as an adequate statement of facts if the petitioner has not disclosed in the Petition the basis on which he arrived at those figures. The Court observed :

"In other words they must be such facts as to afford a basis for the allegations made in the petition. If an election petitioner in his election petition gives some figures as to the rejection of valid votes and acceptance of invalid votes, the same must not be considered as an adequate statement of material facts when the petitioner has not disclosed in the Petition the basis on which he arrived at those figures. His bald assertion that he got those figures from the counting agents of the unsuccessful candidate cannot afford the necessary basis."

In *BHELIRAM BHALAIK Vs. JAI BEHARI LAL KHACHI AND ANOTHER* [AIR 1975 SC 288], the Court held that a Court trying the election petition would be justified in ordering a recount or permitting inspection of the ballot papers only where all the material facts on which the allegations of irregularity or illegality in counting are founded are pleaded adequately in the election petition. Mere allegations that the petitioner suspects or believes that there has been improper reception, refusal or rejection of votes or there have been irregularities in the counting of ballot papers will not be sufficient to support an order of recounting.

To the same effect is the decision of the Supreme Court in *BHABHI Vs. SHEO GOVIND AND OTHERS* [AIR 1975 SC 2117], in which the Court held that the allegations made against the elected candidate must be clear and specific and must be supported by adequate statement of material facts. In *UDHAV SINGH Vs. MADHAV RAO SCINDIA* [AIR 1976 SC 744], the Court declared that failure to plead even a single material fact leads to an incomplete cause of action and incomplete allegations of such a charge are liable to be struck off under Order VI Rule 16 of the C.P.C. If the petition is based solely on allegations which suffer from lack of material facts, the same is liable to be summarily rejected for want of a cause of action.

In **AZHAR HUSSAIN Vs. RAJIV GANDHI** [AIR 1986 SC 1253], one of the questions that arose for consideration was whether the petition could be rejected on the ground that it did not contain material facts keeping in view the fact that Sec. 86 of the Act, which authorises dismissal of an election petition in certain contingencies did not permit dismissal on the ground of violation of Sec. 83. Repelling the argument that such a Petition could not be dismissed under Sec. 86 of the Act, the court observed:

"An election petition can be and must be dismissed under the provisions of Civil P.C. if the mandatory requirements enjoined by Section 83 to incorporate the material facts and particulars relating to alleged corrupt practice in the election petition are not complied with. The code of Civil Procedure applies to the trial of an election petition by virtue of section 87 of the Act. Since C.P.C. is applicable, the Court trying the election petition can act in exercise of the powers of the Code including Order 6 Rule 16 and Order 7 Rule 11(a). Therefore that Section 83 does not find a place in Section 86 of the Act which authorises dismissal of election petitions in certain contingencies does not mean that powers under the C.P.C. cannot be exercised. An election petition can be summarily dismissed if it does not furnish cause of action in exercise of the powers under the civil P.C. and it is settled law that the omission of a single material fact would lead to an incomplete cause of action and that an election petition without the material facts relating to a corrupt practice is not an election petition at all."

(emphasis supplied)

In **BHAGWATI PRASAD DIXIT GHORAWALA Vs. RAJIV GANDHI** [AIR 1986 SC 1534], the Court while reiterating the legal position stated in the earlier decisions, declared that election pleadings have to be precise, specific and unambiguous and if the election petition does not disclose the cause of action, it should be dismissed in limine. The Court observed that if the allegations contained in the Petition do not set out the grounds of challenge as contemplated under Sec. 100 of the Act and if the allegations do not conform to the requirement of sections 81 and 83 of the Act, the pleadings are liable to be struck off and the election petition liable to be rejected under Order VII Rule 11 of the C.P.C.

To the same effect is the decision of the Supreme Court in **V NARAYANASWAMY Vs. C. P. THIRUJAVUKKARASU** AIR 2000 SC 694], where the Court distinguished 'material facts' from 'material particulars' in the following words :

"There is difference between "material facts" and "material particulars." While the failure

to plead material facts is fatal to the election petition the absence of material particulars can be cured at a later stage by an appropriate amendment. "Material facts" mean the entire bundle of facts, which would constitute a complete cause of action and these must be concisely stated in the election petition, i.e., Cl (a) of sub-section (1) of S:83. Then under Cl (b) of sub-section (1) of S:83 the election petition must contain full particulars of any corrupt practice. The particulars are obviously different from material facts on which the petition is founded."

The decision of the Supreme Court in **MAHENDRA PAL Vs. RAM DASS MALANGER AND OTHERS** [AIR 2000 SC 16], reiterates the legal position in similar words.

To sum up : (1) the provisions of Sec. 83 of the Representation of People Act are mandatory. Omission of the petitioner to state material facts are required by the said provision is fatal to the maintainability of the Petition. (2) 'Material Facts' are different from the 'Material particulars'. While the former constitute the cause of action to maintain the Petition, the later can be provided subject to the condition that the material facts in regard to the ground set up in the election petition have been stated. (3) The omission to state even a single material fact constitutes an incomplete cause of action justifying dismissal/rejection of the petition at the threshold under Order VII Rule 11 of the C.P.C.. (4) If the ground urged in the petition relates to improper reception or rejection of votes, it is not enough to give some figures regarding the said votes. Any such figures cannot be deemed to be an adequate statement of material facts when the petitioner has not disclosed in the petition the basis on which he had arrived at those figures. (5) Bald assertions that the petitioner got the figures from his counting agents or the agents of other unsuccessful candidates cannot afford a legal basis. He must state as to who are the agents and what were the serial numbers of the ballot papers on which they had advanced their objection at the time of their improper reception or rejection by the Returning Officer.

It is time now to revert back to the facts of the case in hand to determine whether the Petition satisfies the requirements of Sec. 83 of the Act and sets out the material facts in support of the allegations made and the grounds urged.

In para 1 of the petition certain general facts are stated, which are not indisputable. Para 2 of the petition inter alia states that the Returning Officer has rejected more than 30,000 votes cast in favour

of the petitioner on the recommendation of the Returning Officers of the Assembly Constituencies, without assigning proper reasons and without showing the ballot papers to the "Election Agents" of the petitioner. In paras 3 and 6 of the petition, the petitioner has alleged that maximum votes were rejected in Kollegal, Chamrajnagar, Santhamaranahalli and Gundlupet Constituencies, in which large scale irregularities were committed in the counting of votes. In para 4 of the petition the petitioner has given particulars of the Assistant Returning Officers and alleged that although, some of the "Election Agents" of the petitioner had raised objections, the same were not considered while rejecting the votes. In para 5 of the petition, the petitioner has alleged that signature of the Returning Officer are not affixed on the Ballot Papers as was required under Rule 56 of the Conduct of Election Rules and Section 100(1) (d) (iii) and (iv) of R.P. Act. It is also alleged that the Votes cast in favour of the petitioner were mixed with the bundle of the votes of the second Respondent. Para 7 of the petition relates to one ballot paper found in the School premises where Polling Station No. 27, of Heggawadipura in Santhamaranahalli village, constituency was established. It is alleged that a case has been registered by the Police and the matter is under investigation. Para 8, refers to Representation made by the petitioner to the Returning Officer, pointing-out irregularities in the rejection of votes and mixing of votes polled in his favour with those cast in favour of the Respondent, which representation it is alleged was rejected mechanically. Paras 9 to 18 give particulars of the votes cast in favour of the petitioner and the second Respondent in different grounds of counting. Para 19 alleges mixing of votes cast in favour of the petitioner with those polled in favour of the second Respondent and states that in each bundle of 25 ballot papers, there were at least 4 to 5 votes cast in favour of the petitioner that were mixed with those cast in favour of the second Respondent. In para 20, the petitioner has alleged that Counting Agents on Counting Tables Nos 6, 10 and 14 of Kollegal Constituency, Counting Table Nos. 2, 3 and 4 of Santhamaranahalli Assembly Constituency and Counting Tables 1, 3 and 5 of Chamrajnagar Constituency had raised objections regarding improper mixing of votes and the rejection of the votes which were not considered by the Returning Officer. In para 21, the petitioner alleges improper mixing of votes in regard to table Nos. 1, 6, 10 and 12 of Chamrajnagar Constituency, Tables 1, 6, 10 and 12 of Kollegal Constituency, Tables No. 2, 4, 8 and 9 of Santhamaranahalli Assembly Constituency and tables 4, 6, 7, 8 and 10 of Gundlupet Assembly Constituency paras 22 to 25 reiterate the said allegations. In para 26 the petitioner gives certain figures which according to him represent the votes actually polled in his favour in the Assembly

segments referred to therein. Paras 27 and 28 allege that rejection and mixing of votes was contrary to law and had materially affected the result of the election.

For the sake of clarity, the petitioner's grievance as regards the improper reception and rejection of votes as also the irregularities in the matter of counting of the votes may be summed up thus :

- (1) More than 30,000 votes caste in favour of the pititioner have been rejected without assigning proper reasons. Most of these votes were rejected in Kollegal Chammarajanagar, Santhemaranahally and Gundlupet Constituencies.
- (2) The rejection was made by the Returning Officers of the Assembly Constituencies who were not competent to do so.
- (3) The rejection of the votes was not in accordance with the procedure prescribed by the Rules and without showing the ballots to the election agents of the petitioner.
- (4) The objections raised to the rejection of votes in regard to Kollegal, Santemaranahalli Chamarajnagar and Gundlupet Assembly Constituencies were ignored by the officials concerned.
- (5) The result of the election was materially affected by reason of a proper votes polled in favour of the petitioner with those counted in favour of the elected candidate.
- (6) Rejected ballot papers do not have the signatures of the Returning Officer affixed to them as required under sec. 56 of the Conduct of Election Rules.
- (7) The representation made by the petitioner seeking a recount was rejected mechanically.

The question then is whether the allegations made by the petitioner in regard to the irregularities set out above are supported by the material facts required to be stated in terms of Sec. 83 of the Representation of the People Act.

In so far as the petitioner's allegation that more than 33,000 votes cast in his favour were rejected without giving any proper reasons and that large scale irregularities were committed in the counting of votes, the petition does not disclose the basis on which those allegations are made nor does it provide the material facts relevant

thereto. The allegations are general in nature and blissfully vague. Simply saying that out of the rejected votes more than 30,000 were polled in favour of the petitioner is of no consequence in the absence of supporting material facts relevant thereto. Similarly, the omnibus allegations that large scale irregularities were committed in the counting of votes or that the votes polled in favour of the petitioner's were rejected without assigning proper reasons does not meet the requirement of Section 83 of the Act nor do the said allegations give rise to a triable issue.

The next allegation is that votes were rejected by the Returning Officers of the Assembly Constituencies instead of the Returning Officer of the Parliamentary Constituency. The absence of signatures of the Returning Officer of the Parliamentary Constituency, on the rejected Ballots is also urged as a ground to challenge the Election. The petition does not however make out a case for interference with the result of the Election even on the basis of the said allegations. It is common ground that Election for the Lok Sabha and the State Legislative Assembly were held together. The Returning Officers for the Assembly Constituencies comprising the Parliamentary Constituencies were appointed as the Assistant Returning Officers for the Parliamentary Constituencies. The power of the Returning Officer in regard to rejection of Votes are exercisable even by the Assistant Returning Officers, appointed for the Constituencies concerned. This is evident from Section 22 of the R. P. Act, which reads :—

“(1) The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions:

Provided that every such person shall be (an Officer of Government or of a local authority).

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer :

Provided that no assistant returning Officer shall perform any of the functions of the returning officer which relate to the scrutiny of nominations unless the returning Officer is unavoidably prevented from performing the said functions.”

The Assistant Returning Officer's were, therefore entitled to perform all the functions of the Returning Officer except those relating to scrutiny of the nomination papers, which function could be performed by them only, if the Returning

Officer was unavoidably held up. The rejection of the votes by the Returning Officers of the Assembly Constituencies in exercise of their powers as Assistant Returning Officers of the Parliamentary Constituencies, cannot therefore be found fault with. It follows that the absence of the signature of the Returning Officer on the rejected Ballot Papers, would also be wholly immaterial so long as the Assistant Returning Officers have in keeping with the procedure prescribed by the Rules signed by the rejected ballot papers. That the Assistant Returning Officers have signed the rejected ballot papers is not disputed. The result is that the rejection of the ballot papers by the Assistant Returning Officers of the Parliamentary Constituencies, does not afford any cause of action to sustain the petition.

That brings me to the allegation that the rejection of the ballot Papers was in violation of the procedure prescribed by the Rules and without showing them to the “Election Agents” of the petitioner. It was argued by Mr. Shantaraju, Counsel for the second Respondent that the question of showing the ballot papers to the “Election Agents” of the petitioner did not arise having regard to the fact that the petitioner like all other candidates was entitled to appoint only one “Election Agent”. Section 40 of the R. P. Act, entitles every candidate to appoint any person other than himself to be his “Election Agent”. Section 45 provides that an “Election Agent”, may perform such functions as may be prescribed. There is therefore no gainsaid that the question of petitioner appointing more than one person as “Election Agents” did not arise. The averment that the Ballot Papers were rejected without showing the same to the “Election Agent” of the petitioner is thus clearly mis-placed. What the petitioner obviously means to say is that the votes were rejected without showing them to his “Counting Agents” appointed under Section 47 of the Act. Even if we ignore the confusion which the petitioner appears to be suffering from, the question is whether the allegation regarding rejection of the Votes contrary to the procedure prescribed by the Rules, and without showing the Ballots to the “Counting Agents” can be said to provide a cause of action. In so far as the violation of the procedure prescribed by the Rules is concerned, the Election Petition does not give any details whatsoever. All that is stated is that the rejection was contrary to the procedure prescribed by the Rules. The petition ought to have set out the material facts in regard to the alleged violation which the petitioner had in mind while making the said allegation. Similarly the allegation that the Votes

were rejected without showing the same to "Election Agents" ("Counting Agents") is also bereft of any material facts. The petition does not indicate the number of votes that were rejected without showing the same to the "Counting Agents" concerned nor does the petition give the names and Particulars of the "Counting Agents" concerned or the Assembly segment in relation to which such alleged irregularity was committed. The general allegation that ballots were rejected without showing the same to the "Counting Agents" of the petitioner, would not therefore meet the requirements of Section 83 especially when the petitioner does not disclose the basis on which the said allegation is made.

Coming then to the rejection of Votes polled in Kollegal, Santhamaranahalli, Chamrajnagar and Gundlupet Assembly Constituencies, all that the petitioner has stated is that the "Counting Agents" in respect of some of the counting Tables, for the said Assembly Constituencies had raised objections regarding improper rejection of votes, which were not considered by the Returning Officer. The petition does not however state the requisite facts in regard to the nature of objections and the number of votes that were rejected on each one of the tables referred to by the petitioner. As observed by the Supreme Court in *JITENDRA BAHADUR SINGH vs. KRISHNA BEHARI & OTHERS* [AIR 1970 SC. 276] even if the petition gives certain figures as to the rejection of the valid votes and acceptance of invalid votes, the same cannot be considered as an adequate statement of material facts if the petitioner does not disclose the basis on which he arrived at those figures. A bald assertion that those figures were obtained from the "Counting Agents" of the unsuccessful candidates cannot declared the Court afford the necessary basis.

In the instant cases the petitioner has not even given the figures of the votes rejected improperly and despite objections raised by the Counting Agents on his behalf. The allegation is much too vague to give rise to a cause of action. As to how many votes were rejected and what were the objections that were raised against rejection thereof has not been disclosed. The allegation therefore remains unsupported by the material facts requisite for making out a triable case.

The position is no different in regard to the allegation of the petitioner that votes polled in his favour were counted in favour of the elected candidate. Even here, the allegation is totally vague and general in nature. What the petitioner states is that with every bundle

of 25 ballot papers 4-5 votes polled in his favour were mixed with the votes polled in favour of the second Respondent correspondingly reducing the number of votes polled in favour of the petitioner. The allegation is that objections regarding the improper mixing of votes in regard to certain Counting Tables for Kollegal, Chamrajnagar, Santhamaranahalli and Gundlupet Constituencies were raised by the Counting Agents but ignored by the Returning Officer. The petitioner does not however give any details as to the number of votes that were so mixed on each one of the tables referred to by the petitioner and the basis on which the allegation regarding improper mixing has been made. In the absence of material facts supporting the allegation of improper mixing it is difficult to see how the petitioner can claim a cause of action to maintain this petition.

Last but not the least is the allegation regarding mechanical rejection of the Representation made by the petitioner in which the petitioner claims to have pointed out the irregularities in the improper reception rejection and mixing up of votes in course of counting. A copy of the Representation filed by the petitioner has been produced as ANNEXURE-D to the petition. The English translation of the Representation furnished by Mr. Gangireddy, Counsel for the petitioner reads as under :

"From :
S. Siddaraju,
Candidate (Congress)
15 Chamrajanagar Parliamentary Constituency,
No. 2358, 'G' Block,
Adichunchanagiri Road,
Mysore.

To :
The Election Presiding Officer,
15 Chamrajanagar Parliamentary,
Constituency, Chamrajnagar.
Sir,

The counting of votes for the 13th Parliamentary election took place on 6-10-1999, I have doubt and suspicion in counting votes, because the votes polled for Assembly constituencies and Parliamentary constituencies are not talling. There are variation and differences in polled vote and while deciding the invalid votes, the votes polled in favour (Hand symbol) are rejected. And while making the bundle of 25 votes counted votes, the votes polled in my favour were mixed up in the bundle of other candidates, and counted in their favour. I have a doubt and suspicion in counting votes. I feel injustice is caused to me

for the reasons stated above. Hence, I request you to order for recounting of votes of Chamara-janagar Parliamentary constituencies.

Dated : 7-10-1999.

Yours truly,
Sd/-

It is evident from the above that the Representation did not contain any allegation regarding votes being rejected by Officers not competent to do so or regarding votes being rejected in violation of the procedure prescribed by the Rules and without showing the ballot papers to the Counting Agents concerned or votes being rejected despite objections raised by the "Counting Agents" in Kollegal, Santhamaranahalli, Chamara-janagar and Gundlupet Assembly Constituencies or 4 to 5 votes polled in favour of the petitioner being mixed with the bundle of votes polled in favour of the successful candidates. The Representation is based on doubts which the petitioner entertained regarding the counting of Votes and rejection of those that were polled in his favour. In the absence of any specific allegation suggesting any irregularity in the counting process, the Returning Officer was justified in rejecting the request for a re-count. Inasmuch as the Re-count applied for by the petitioner was declined the Returning Officer did not in my opinion commit any illegality or impropriety to affect the validity of the result declared by him. As a matter of fact, the absence of any one of the allegations now made in the Election Petition challenging the validity of the counting and the result, clearly shows that the petitioner did not on the date of the counting have any reasonable ground to question the result of the counting process as such. Even if the allegations now made in the petition are taken on their face value, the same fall short of the requirements of Section 83 of the R. P. Act, and therefore do not provide a cause of action to the petitioner to maintain the present petition.

Mr. Gangi Reddy, however, argued that the deficiencies in the petition could be removed by permitting the petitioner to amend the same. He submitted that the application made by the petitioner for amendment could be allowed and the particulars set out therein allowed to be incorporated, which would provide a cause of action to the petitioner. There is in my opinion, no merit in that contention either. The legal position as settled by the decisions of the Supreme Court referred to earlier makes a distinction between material facts the absence whereof would result in dismissal of the petition for want of cause of action and material particulars that could be provided if not originally set out in the petition. As stated by their Lordships in *V. NARAYANA SWAMY's case/AIR 2000 SC. 694* while failure to plead material facts is fatal to the Election Petition, the absence of material particulars can be cured at a later stage by an appropriate amendment. Since

the petition as drawn up by the petitioner has been found to be lacking in material facts, there is no question of the petitioner infusing life into the same by way of an amendment. Even Mr. Gangireddy, was fair enough to concede that material facts could not be introduced by way of an amendment while material particulars could be provided. He therefore described the Amendment Application as an attempt to provide material particulars and not material facts which according to him were already set out in the petition. Since that submission has not been found to be correct, there is no room for granting the application for amendment to bring in material particulars.

Issues No. 2 and 3 are accordingly decided against the petitioner.

Issues No. 4 and 5 :

Keeping in view my findings on Issues 2 and 3, above, I consider it unnecessary and academic to deal with Issues No. 4 and 5.

In the result, this petition is liable to be rejected in terms of Order VII Rule 11 of C.P.C. read with Section 83 of the R. P. Act. The same is accordingly rejected with costs assessed at Rs. 1,000 to be paid out of the security deposit made by the petitioner. The balance shall be refunded to the petitioner.

The Registry shall take steps for communication of this Order to the Speaker of the Lok Sabha and Election Commission, in terms of Section 103 of the Representation of the People Act.

Sd/-
Judge

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

ELECTION PETITION NO. 21/1999

BETWEEN :

A. Siddaraju, Major
R/o, No. 2358, 'J' Block,
Adichunchanagiri Road;
Kuvempunagar, Mysore.

Petitioner

(By Sri G. Gangi Reddy, Adv.)

Vs.

1. Returning Officer No. 15,
Chamarajanagar.
Lok Sabha Parliamentary Constituency,
Chamarajanagar, and
The Deputy Commissioner,
Chamarajanagar Distt.

2. V. Srinivasa Prasad,
S/o. Venkataiah, M.P.,
Major, R/o. No. 91, Bhemasandra,
7th Main, Jayalakshimpuram,
Mysore-12.
3. H. Govindaiah,
Deputy Registrar of Evaluation,
Karnataka Open University,
Manasagangotri.
4. M. K. Kempe Siddaiah, Major,
No. 412, 4th 'A' Main Road,
3rd Stage, Basaveswaranagar,
Bangalore-79.
5. Vicharavadi Mantalingaiah,
President, A.J.M.S.,
Gandhinagar, Mysore. Respondents
The Govt. Adv. for R-1,
G. V. Shantharaju for R-2,
Respondents 3 to 5 are placed ex-parte v/o.
dt. 24-6-2000.

DECREE IN ELECTION PETITION

This Election Petition filed u/s. 81 of the Representation of the People Act, 1951, by the Petitioner-candidate at 1999 General Election to the Lok Sabha from No. 15, Chamarajanagar Parliamentary Constituency held on 11-9-1999 praying that this Hon'ble Court be pleased to :

1. Call for the concerned records, order for production of the Ballot Papers including the rejected votes and pass for orders, for recount as deemed fit, in the interest of Justice.

2. Declare the election of 2nd Respondent as void and thereafter declare the Petitioner is elected as M.P. for the Parliamentary Section 15 of Chamarajanagar in Karnataka State, in the interest of Justice and equity.

This Election Petition coming up for orders, on I.As. I to V regarding I.As. I and III for deletion of Respondent No. 1 from the Election Petition, I.A. II for striking out the Paragraphs 2 to 22 in the Election Petition and for dismissing the Election Petition, I.A. IV and I.A. V for amendment of the Election Petition, between 9-6-2000 to 30-3-2001 and for Pronouncement of orders on 20-4-2001 in the presence of Sri G. Gangi Reddy, Advocate for Petitioner and the Government Advocate for Respondent No. 1 and Sri G. V. Shantharaju, Advocate for Respondent No. 2 and Respondents 3 to 5 having been placed ex-parte v/o dated 24-6-2000 and for the reasons stated in the order, it is ordered and decreed that the Election Petition be and the same is hereby dismissed.

And it is further ordered and decreed that the Costs assessed at Rs. 1,000 to be paid out of the Security Deposit made by the Petitioner to the 2nd Respondent. The balance amount shall be refunded to the Petitioner.

Sd/-

Registrar (Judicial)

[No. 82/KT-HP/21/99/2001]

By Order,

BABU RAM, Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 2001

आ. अ. 147:—निर्वाचन आयोग का समाधान हो गया है कि तमिलनाडु विधान सभा के माधुराण निर्वाचन, 2001 के लिए जो नीचे की मारणी के स्तम्भ (2) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है स्तम्भ (3) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला अत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तख्तीन बनाए गए नियमों द्वारा अपेक्षित उक्त मारणी के स्तम्भ (4) में गवाहणित अपने निर्वाचन व्ययों का देखा दाखिल करने में असफल रहा है :

और यतः उक्त अभ्यर्थियों ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है :

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की मारणी के स्तम्भ (3) में विनिर्दिष्ट व्यक्तियों को संसद के किमी भी गदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए उस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं. विधान सभा निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहंता का कारण	
1	2	3	4
1. 15—गुम्मिडिपुन्डी	नेदुनचनसिथान, ई वादामादुगई, गांव उतुकोटटाई तालुक तमिलनाडु		कोई भी लेखा दाखिल नहीं किया
2. 16—पोन्नैरी (अ. जा.)	रतिनाम, ए. डी. 4, बल्लुवार स्टे. अरानी पोन्नैरी तालुक तमिलनाडु		—वही—
3. 18—विलिलवक्कम	अबुबाकर, एम., 35/39 अंगामुतु नगर, फर्स्ट स्ट्रीट पाडी, चेन्नई—50, तमिलनाडु		—वही—
4. 28—पूनामल्ली	गौतमन, सी. एन. ए., ओलड नं. 12 बी, (न्यू नं. 27 बी) 4-वेस्ट, क्राम स्ट्रीट, शेनाय नगर, चेन्नई—30, तमिलनाडु		—वही—
5. 30—तिरुट्टानी	1. चन्द्रबाबू, पी. एम., मुपुत्र सुब्रामनीयन, कोडिवल्ली गांव, इल्लुपुर पोस्ट कनकाभ्माचत्रम, तिरुत्तानी तालुक तमिलनाडु 2. व्यागाराजन, टी. एम. मुपुत्र मुनीरतिनाम, 2/32, बी मन्नानी स्ट्रीट, तिरुवात्तनागडु—631210, तिरुत्तानी तालुक, तमिलनाडु 3. जयरमण, ए., मुपुत्र एम. अरुमुगम, 72 ए, तट्टानकुलम पुडुर, तिरुत्तानी टाउन, तिरुत्तानी तालुक—631209 तमिलनाडु		—वही— —वही— —वही—
6. 31—पल्लिपेट	1. शंकरण, जी., नदीशाम गांव व पो. पिल्लिपेट तालुक, तिरुवल्लूर जिला, तमिलनाडु 2. तिरुवेगदम, ए. के. 4/401, डा. अम्बेदेकर स्ट्रीट, वनगानूर, गांव और पोस्ट, पल्लिपेट तालुक, तिरुवल्लूर जिला, तमिलनाडु 3. पंचाटचरम, डी., सोमासमुद्रम कालोनी, शोलिनधुर पोस्ट, वालाजा तालुक, वेल््लोरे जिला तमिलनाडु 4. विनयागम, पी. ए., सेट्टु स्ट्रीट, बुच्चिरेड्डी पल्ली, गांव और पो. तिरुट्टानी तालुक, तिरुवल्लूर जिला, तमिलनाडु।		—वही— —वही— —वही— —वही—

1	2	3	4
7.	197—इलायंगुडी	1. मलीराजू एम. गुनाप्पानेदल (पो. आ.) इमानेश्वरम (वाया) इलायंगुडी तालुक, तमिलनाडु 2. रामूल खान, पी. एम. के., 5. पक्कीर रावतेर स्ट्रीट, इलायंगुडी, तमिलनाडु	कोई भी लेखा दाखिल नहीं किया —वही—

[सं. 76/त. ना.-वि. स./2001]

आदेश से,
बाबू राम, सचिव

ORDER

New Delhi, the 7th November, 2001

O. N. 147.—Whereas, the Election Commission is satisfied that each of the contesting candidates specified in column (3) of the Table below at the General Election to the Tamil Nadu Legislative Assembly, 2001, held from the Constituency specified in the column (2) against his/her name has failed to lodge an account of his/her election expenses as mentioned in column (4) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas the said candidates have either not furnished any reason or explanation for the said failures even after due notice to each of them and the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (3) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

Sl. No.	No. & Name of Assembly Constituency	Name & Address of the contesting candidate	Reason for disqualification
1	2	3	4
1.	15-Gummidipoondi	Nedunchanzhian, E, Vadamadurai, Village Uthukottai Taluk, Tamil Nadu.	Accounts not lodged at all.
2.	16-Ponneri (SC)	Rathinam, A.D., 4, Valluvar St., Arani, Ponneri Taluk, Tamil Nadu.	-do-
3.	18-Villivakkam	Abubakkar M., 35/39, Angamuthu Nagar, 1st St., Padi, Chennai-50 Tamil Nadu.	-do-

1	2	3	4
4.	28-Poonamallee	Gouthaman, C. N. A., Old No. 12 B, (New No. 27 B), 4th West, Cross Street, Shenoy Nagar, Chennai-30 Tamil Nadu.	Accounts not lodged at all.
5.	30-Tiruttani	1. Chandrababu, P. S., S/o Subramanian, Kodivalli Village, Illupur Post, 631-204 Via, Kanakammachatram, Tiruttani Taluk , Tamil Nadu. 2. Thiyagarajan, T. M., S/o Munirathinam, 2/32, B. Sannathi St., Thiruvalangadu-631210, Tiruttani Taluk, Tamil Nadu. 3. Jayaraman, A., S/o M. Arumugam, 72A, Thattankulam Pudur, Tiruttani Town, Tiruttani Taluk-631209 Tamil Nadu.	-do- -do- -do-
6 .	31-Pallipattu	1. Sankaran, G., Nediyam Village & Post, Pallipattu Taluk, Tiruvallur District, Tamil Nadu. 2. Thiruvengadam, A. K., 4/401, Dr. Ambedkar Street, Vanganoor, Village & Post, Pallipattu Taluk, Tiruvallur District, Tamil Nadu. 3. Panchatcharam, D., Somasmudram Colony, Sholinghur Post, Walaja Taluk, Vellore District, Tamil Nadu. 4. Vinayagam, P. A., Mettu Street, Buchireddy Palli, Village & Post, Tiruttani Taluk , Tiruvallur District, Tamil Nadu.	-do- -do- -do- -do-

1	2	3	4
7.	197-Illangudi	1. Maliraju, M., Gunappanendal (P.O.), Emaneswaram (via). Illayangudi Taluk, Tamil Nadu.	Accounts not lodged at all.
		2. Rasool Khan. P. M. K., 5, Pakkir Rowther St., Illayangudi. Tamil Nadu.	-do-

[No. 76/TN-LA/200 1]

By Order,
BABU RAM, Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 2001

आ.अ. 148.---निर्वाचन आयोग का समाधान हो गया है कि केरल विधान सभा के संघटन निर्वाचन, 2001 के लिए जो स्तम्भ (2) में विनिर्दिष्ट निर्वाचन क्षेत्र में हुआ है स्तम्भ (3) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रति-निधित्व अधिनियम, 1951 तथा तब्दीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (4) में दथार्दशित अपने निर्वाचन व्ययों का लेखा अपेक्षित रीति में दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने सम्बन्धित मूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यावैचित्य नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (3) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख में तीन वर्ष की कालावधि के लिए निरहित घोषित करता है :

सारणी

क्र. सं. क्र. सं. और नाम	विधान सभा निर्वाचन क्षेत्र की	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरर्हता का कारण
1	2	3	4
1.	16-उत्तर वायनाड (अ.ज.जा.)	पलेरी रामन, पलेरी (एच) मक्कीयाडु पोस्ट येल्लामुंडा (वाया) केरल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया।
2.	29-कालारोट्टा	1. बीजू कोट्टायाम्कोल्ली (एच) चीकालूर कनियमबेट्टा पो. केरल।	-वही-
		2. रामचन्द्रन, कन्नातकोट्टा, रट्टाकोली, कलपेट्टा, केरल।	-वही-
		3. हामजा, कोरनकुल्लान (एच) कुम्बालाक्काड पोस्ट वाया नाड केरल।	-वही-

1	2	3	4
3.	30-मुल्गन की बैटरी	बी.टी. अराचन बडाक्केयिल, चम्पारा, सीतामाऊट (पो.) केरल।	निर्वाचन व्ययों का कोई भी लेख दाखिल नहीं किया।

[सं. 76/केरल-वि. स./2001]

आदेश से,

वाक् रास, सचिव

ORDER

New Delhi, the 7th November, 2001

O.N. 148.—Whereas, the Election Commission is satisfied that each of the contesting candidates specified in column (3) of the Table below at the General Election to the Kerala Legislative Assembly, 2001, held from the Constituency specified in the column (2) against his/her name has failed to lodge an account of his/her election expenses as mentioned in column (4) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas the said candidates have either not furnished any reason or explanation for the said failures even after due notice to each of them and the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (3) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

Sl. No.	No. and Name of Assembly Constituency	Name and Address of the contesting candidate	Reason for disqualification
1	2	3	4
1.	16-North Wayanad (ST)	Paleri Raman, Paleri (H), Makkiyadu Post, Vellamunda (via) Kerala	Accounts not lodged at all
2.	29-Kalpetta	1. Biju, Kottayadokolly (H), Checkkallor, Kaniyambetta, P.O. Kerala	-do-
		2. Ramchandran, Kannankott, Rattakkolli, Kalpetta, Kerala.	-do-
		3. Hamza, Korankunna (H), Kambalakkad Post, Wayanad, Kerala.	-do-

1	2	3	4
3.	30-Sulthan Bathery	V.T. Appachan, Vadakkethil, Chamappara, Secthamount (P.O.) Kerala	Accounts not lodged at all.

[No. 76/KL-LA/2001]

By Order,

BABU RAM. Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 2001

आ.अ. 149.—निर्वाचन आयोग का समाधान हो गया है कि पश्चिम बंगाल विधान सभा के साधारण निर्वाचन 2001 के लिए जो स्तम्भ (2) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (3) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तब्दीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (4) में यथा-दर्शित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं;

और उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्येय नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (3) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् का सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है :

सारणी

क्रम सं.	निर्वाचन क्षेत्र का नाम व क्रम सं.	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4
1.	4-कूच बिहार उत्तर	श्री प्रकाश राय, मैंगजीन रोड, पो. जिला कूच बिहार, पश्चिम बंगाल ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया ।
2.	26-फन्मिदेव (अ.ज.जा.)	श्री कारनेलियस टिगा, चुरनीडोंगी चाथट, बॉन्मगांव, पो. ब थाना फोन्मीदेवा, जिला दार्जिलिंग, पश्चिम बंगाल ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया ।
3.	79-हंसखाली (अ.जा.)	सुश्री अमृता सरकार, गांव हेमायेतपुर (मथनारायरपुर), पो. शिवनारायणपुर, थाना धनटालम, जिला नाडिया, पश्चिम बंगाल ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया ।

1	2	3	4
4.	81-रणघाट पश्चिम	श्री दिपांकर बिस्वास कामपर्स नोटिफाईड एरिया, डी ब्लॉक, बार्ड नं. 3, जिला नाडिया, पश्चिम बंगाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
5.	81-रणघाट पश्चिम	श्री स्वप्न दत्ता गांव ब पो. पनपारा, जिला नाडिया, पश्चिम बंगाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
6.	83-हरिनघाटा	श्री परेश मंडल गांव ब पो. चन्दुरिया, जिला नाडिया, पश्चिम बंगाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
7.	83-हरिनघाटा	शुश्री शेफाली हालदार गांव ब पो. चन्दुरिया, जिला नाडिया, पश्चिम बंगाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
8.	130-भटपारा	श्री नरेन्द्र प्रताप मिश्रा 2 बी, प्रिंस रहीमुद्दीन नेन, कोलकाता-700033	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
9.	130-भटपारा	श्री अजय विश्वास 29/4/1, कबिन रोड़, पो. जगतदाल, 24 परगना (उत्तर), कोलकाता-743125	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
10.	130-भटपारा	श्री रमेश शाँ 55/1, अटचाला बागान रोड़, जगतदाल, 24 परगना (उत्तर), 743125	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
11.	293-नलहाटी	डा. जयप्रकाश चक्रवर्ती नलहाटी मेडिकल सेन्टर, पो. नलहाटी (टी.एम.), जिला बीरभूम, पश्चिम बंगाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
12.	293-नलहाटी	श्री भंजन लैट गांव बन्टी, पो. बोटिया, जिला बीरभूम, पश्चिम बंगाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया

[सं. 76/प. बं.-वि.स./2001]

आदेश से,

धनश्याम खोहर, सचिव

ORDER

New Delhi, the 7th November, 2001.

O. N. 149. —Whereas, the Election Commission is satisfied that each of the contesting candidate specified in column (3) of the Table below at the General Election to the West Bengal Legislative Assembly, 2001 held from the Constituency specified in column (2) against his name has failed to lodge any account of his election expenses or has failed to lodge his account of election expenses in the manner required by law as shown in column (4) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder; and

Whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (3) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this Order

TABLE

S. No.	Number and Name of Assembly Constituency	Names of contesting candidates	Reason for disqualification
1	2	3	4
1.	4—Cooch Behar North	Sh. Prakash Roy Magazine Road, P.O. + District: Cooch Behar, West Bengal.	Account not lodged at all
2.	26—Phansidewa (ST)	Sh. Cornelius Tigga Churnidangi, Chathat bansgaon, P.O. & P.S. Phansidewa, Distt. Darjeeling, West Bengal.	Account not lodged at all
3.	79—Hanskhali (SC)	Ms. Amrita Sarkar Vill : Hemayetpur, (Mathnarayanpur), P.O. Shibnarayanpur, P.S. Dhantals, District Nadia, West Bengal.	Account not lodged at all
4.	81—Ranaghat West	Sri Dipankar Biswas Cospers Notified Area, D Block Ward No. 3, District Nadia, West Bengal.	Account not lodged at all
5.	81—Ranaghat West	Sri Swapan Dutta Vill. + P.O. Panpara, District Nadia, West Bengal.	Account not lodged at all
6.	83—Haringhata	Sh. Paresh Mondal Vill. + P.O. Chanduria, District Nadia, West Bengal.	Account not lodged at all

1	2	3	4
7. 83—Haringhata	Ms. Shefali Halder Vill. + P.O. Chanduria District Nadia West Bengal.	Account not lodged at all	
8. 130—Bhatpara	Sri Narendra Pratap Mishra 2B, Prince Rahimuddin Lane, Kolkata-700033.	Account not lodged at all	
9. 130—Bhatpara	Sri Ajay Biswas 29/4/1 Kabin Rd., P.O. Jagatdal 24 Pgs (N) Kolkata-743125.	Account not lodged at all	
10. 130—Bhatpara	Sri Ramesh Shaw 55/1, Atchala Bagan Road, Jagatdal, 24 Pgs (N), 743125.	Account not lodged at all	
11. 293—Nalhati	Dr. Jayprakash Chakrabarti Nalhati Medical Centre, P.O. Nalhati (T.S.) District Birbhum. West Bengal.	Account not lodged at all	
12. 293—Nalhati	Sri Bhanjan Let Vill. Banti, P.O. Bautia, District Birbhum. West Bengal.	Account not lodged at all	

[No. 76/WB-LA/2001]

By Order,

GHANSHYAM KHOHAR, Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 2001

आ.प्र. 150.—निर्वाचन आयोग का समाधान हो गया है कि उड़ीसा विधान सभा के माध्याम निर्वाचन 200 के लिये जो स्तम्भ (2) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (3) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तख्तान बताये गये नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (4) में यथावशित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं :

और उक्त अभ्यर्थियों ने सम्यक् सूचना दिये जाने पर भी उक्त असफलता के लिये या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिये गये अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिये कोई पर्याप्त कारण या व्यायोजित्य नहीं है।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसूचन में नीचे की सारणी के स्तम्भ (3) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र को विधान सभा अथवा विधान परिषद् का सदस्य चुने जाने और सदस्य होने के लिये उस आदेश की तारीख से तीन वर्ष की कालावधि के लिये निरर्हा घोषित करता है :

सारणी

क्रम सं.	निर्वाचन क्षेत्र का नाम व क्रम सं.	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4
1.	94-नवापारा	श्री गणनाथ जोशी, स्थान/डॉकघर नुआपाड़ा, थाना नुआपाड़ा, जिला नुआपाड़ा, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
2.	94-नवापारा	श्री जोराखान माझी, स्थान चालमुन्डा, पो. आ. खैरारा रोड, थाना जनक, जिला नुआपाड़ा, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
3.	111-बोलंगीर	श्री बेनीमाधव होटा स्थान/पो. लेओगांव, थाना तुसरा, जिला बोलंगीर, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
4.	138-बीरामित्रपुर (अ. ज. जा.)	श्री सुखदेव प्रधान स्थान माधुपुर पो. आ. लिम्डा, थाना बिस्वा, सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
5.	138-बीरामित्रपुर (अ. ज. जा.)	श्री डोनियल लुपुन क्वार्टर नं. बी/220 सैक्टर 14, राउरकेला-9, जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
6.	138-बीरामित्रपुर (अ. ज. जा.)	श्री पर्वत नलिनी मोहन्ती, क्वार्टर नं. बी/116, सैक्टर-20, राउरकेला, जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
7.	139-राउरकेला	श्री सुभाष द्विवेदी क्वार्टर नं. सी/115, सैक्टर-2, राउरकेला, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
8.	139-राउरकेला	श्री देविका मेहता, बी/386 कोयलनगर, राउरकेला-14, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
9.	140-रघुनाथपल्ली	श्री जानसन अनिल भेंगरा, फर्टीलाइजर टाउन, क्वार्टर नं. सी/231, राउरकेला, 769007, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
10.	140-रघुनाथपल्ली	श्री इगनेस टिरकी, स्थान/पो. मीरपानी, राउरकेला जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
11.	140-रघुनाथपल्ली	श्री किशोर चन्द्र नायक ग्राम गोपापल्ली, थाना वेदध्याम जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।

1	2	3	4
12.	140—रघुनाथपल्ली	श्री सुरा श्रीराम, ग्राम/पो. ओ. झीरपानी जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
13.	141—बोनाई (अ. ज. जा.)	श्री बैकुण्ठ दवेई, स्थान/पो. झोरदापानी, जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।
14.	141—बोनाई (अ. ज. जा.)	श्री बामुदेव किशन, स्थान हाथीकूबा, थाना गोपना, जिला सुन्दरगढ़, उड़ीसा।	कोई भी लेखा दाखिल नहीं किया।

[सं. 76/उड़ीसा-वि.स./2001]

आदेश से,
धनश्याम खोहर, सचिव

ORDER

New Delhi, the 7th November, 2001

O.N. 150.—Whereas, the Election Commission is satisfied that each of the contesting candidate specified in column (3) of the Table below at the General Election to the Orissa Legislative Assembly, 2000 held from the Constituency specified in column (2) against his name has failed to lodge any account of his election expenses or has failed to lodge his account of election expenses in the manner required by law as shown in column (4) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder; and

Whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (3) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this Order.

TABLE

S. No.	Number and name of Assembly Constituency	Names of contesting candidates	Reason for disqualification
1	2	3	3
1.	94—Nawapara	Sh. Gananath Joshi, AT/P.O. : Nuapada, P.S. : Nuapada, District : Nuapada, Orissa.	Account not lodged at all.
2.	94—Nawapara	Sh. Jeerakhan Majhi, AT : Chalmunda, P.O. : Khariar Road, P.S. : Jonk, Distt : Nuapada, Orissa.	Account not lodged at all.

1	2	3	4
3	111—Balangir	Sh. Benimadhab Hota, AT/P.O. : Leogaon, P.S. : Tusra, District : Balangir, Orissa.	Account not lodged at all.
4	138—Biramitrapur (ST)	Sh. Sukdev Pradhan, AT : Madhupur, P.O. : Limda, P.S. : Bista, District : Sundargarh, Orissa.	Account not lodged at all.
5	138—Biramitrapur (ST)	Sh. Daniel Lugun, Qr. No. B/220, Sector 14, Rourkela-9, District : Sundargarh, Orissa.	Account not lodged at all.
6	139—Rourkela	Sh. Pravati Nalini Mohanty, Qr. No. B/116, Sector-20, Rourkela, Orissa.	Account not lodged at all.
7	139—Rourkela	Sh. Subash Dwivedi, Qr. No. C/115, Sector-2, Rourkela, Orissa.	Account not lodged at all.
8	139—Rourkela	Sh. Devika Mahato, B/386, Koelnagar, Rourkela-14, Orissa.	Account not lodged at all.
9	140—Raghunathpali	Sh. Johnson Anil Bhengra, Fertilizer Town, Qr. No. C/231, Rourkela 769007, Orissa.	Account not lodged at all.
10	140—Raghunathpali	Sh. Ignace Tirkey, AT/P.O. : Jhirpani, Rourkela, District : Sundargarh, Orissa.	Account not lodged at all.
11	140—Raghunathpali	Sh. Kishore Chandra Naik, Vill. : Gopapali, P.O. : Vedvyas, District : Sundargarh, Orissa.	Account not lodged at all.
12	140—Raghunathpali	Sh. Sura Oram, Vill./P.O. : Jhirpani, District : Sundargarh, Orissa.	Account not lodged at all.

1	2	3	4
3	141—Bonai (ST)	Sh. Baikuntha Dalei, AT/P O : Jhirdapani, District : Sundargarh, Orissa	Account not lodged at all
14	141—Bonai (ST)	Sh. Basudev Kishan, AT : Hatikucha, P.O. : Gopna, District : Sundargarh, Orissa.	Account not lodged at all.

[No. 76/OR-LA/2001]

By Order

GHANSHYAM KHOHAR, Secy.

